



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply To: OCE

JAN 25 2011

Certified Mail Number 7009 1410 0002 1488 4380
Return Receipt Requested

James Cagle, Risk Manager - EHS
Nu-West Industries, Inc.
Agrium Conda Phosphate Operations
3010 Conda Road
Soda Springs, Idaho 83276

Re: Response to EPA December 20, 2010 Letter; Modification to Work Plan Deadlines; and
Extension of Time for performance – Consent Order Paragraph Nos. 117 and 129
Administrative Order on Consent for Nu-West CPO Facility,
Docket No. RCRA-10-2009-0186

Dear Mr. Cagle:

By letter, dated January 10, 2011, P. Scott Burton provided a response to my letter to you dated December 20, 2010. He provided the response on behalf of Nu-West Industries, Inc. (Nu-West). This letter is in response to P. Scott Burton's January 10, 2011 letter.

I. ERI Survey Data

In a conference call with Nu-West and WSP prior to approving the Sampling and Analysis Work Plan for Site Characterization of Nu-West Industries Conda Phosphate Operations, at the meeting on December 8, 2010, and again in my letter to you dated December 20, 2010, EPA requested that Nu-West provide EPA with all of the raw ERI data. The ERI data provided with the January 10, 2011 letter is incomplete. As P. Scott Burton indicated in his letter, "Enviroscan manually removed noisy data based on misfits between calculated and measured apparent resistivity values," and "...less than 15% of data on all data profiles – with the exception of ERI Survey Line 5B – was removed." Also, the data received does not include header/metadata which is necessary for EPA to complete its evaluation of the ERI data and reported results. Without that data, EPA cannot determine the spacing of the electrodes or even if the data have been inverted to show resistivity values.

Please provide all the raw data as soon as possible, but not later than 10 days from your receipt of this letter. As you know, the evaluation of the ERI results must be completed before locations for seismic testing can be selected.

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Provide the ERI data collected at the Nu-West Site in its entirety as *.stg files or *.urf files including the Headers/Metadata for our use. If Advanced Geosciences Inc, SuperSting equipment was not used or if the Universal Resistivity Data file format is not available, please send the data in the form it was collected with all headers and geometry information necessary for interpretation. I look forward to receipt of the complete raw data.

II. ERI Survey Results and Groundwater Monitoring Data Information

EPA looks forward to receiving the narrative discussing the conductive features identified in the ERI survey lines located west of the Phase I Gyp Survey Stack and any potential correlation with conductivity values obtained from groundwater wells located in the same general area. P. Scott Burton's January 10, 2011 letter indicated that Nu-West expects to provide EPA with that information by February 11, 2011.

III. Schedule for Completing Selected Portions of the Supplemental Work Plan

P. Scott Burton's January 10, 2011 letter indicates that Nu-West expects to provide EPA with a summary of the well installation, construction criteria and sampling procedures by February 11, 2011, along with a proposed approach to geophysical logging. While this information may prove useful, it is not what EPA requested. What EPA requested and understood would be submitted by January 10, 2011 is a proposal and schedule for submitting complete components of the Supplemental Work Plan that are not dependant upon the collection of seismic data. In my December 20, 2010 letter I identified sections of the Supplemental Work Plan that can be developed now to ensure that remaining field work can proceed without delay once completion and evaluation of the seismic study is completed. Please provide a proposal and schedule as soon as possible for submitting components of the Supplemental Work Plan in sufficient detail to satisfy Consent Order requirements, which includes those components identified in my December 20, 2010 letter.

IV. Extension of Deadline to Submit Site Assessment Report and Supplemental Work Plan.

We are not prepared to act on the proposed Work Plan schedule modifications in P. Scott Burton's January 10, 2011 letter without the proposal and schedule described in section III above for submitting components of the Supplemental Work Plan that are not dependent upon completion of the seismic surveys. We recognize that the current deadline for submitting the Supplemental Work Plan is February 2, 2011. We are prepared to consider a short extension of the deadline to allow some additional time for the submittal and EPA consideration of the proposal and schedule described in section III above.

If you have any questions, please do not hesitate to call. Questions from legal counsel should be addressed to Andrew Boyd. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Magolske", written in a cursive style.

Peter Magolske

cc: P. Scott Burton, Esq.
Hunton and Williams LLP

Brian Monson
Idaho Department of Environmental Quality

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bcc: Andy Boyd, ORC-158
Barbara McCullough, OCE-164